

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION



LILLIE COMBS AND ANDREW NICHOLAS,
WRONGFUL DEATH BENEFICIARIES OF
RUCKER COMBS, DECEASED

PLAINTIFF

VS.

CIVIL ACTION NO. 3:14-cv-718 DPJ-FKB

COVENANT HEALTH & REHAB OF VICKSBURG, LLC
AND JOHN DOE DEFENDANTS 1 THROUGH 10

DEFENDANTS

NOTICE OF REMOVAL

COMES NOW Defendant, Covenant Health & Rehab of Vicksburg, LLC ("Defendant") by and through counsel, and files this, its Notice of Removal of this cause to the United States District Court for the Southern District of Mississippi, Northern Division, and would show unto the Court the following:

I. JURISDICTION AND VENUE

1. Plaintiffs, Lillie B. Combs and Andrew Nicholas, as the wrongful death beneficiaries of Rucker Combs ("Plaintiff") filed a civil action against Defendant alleging medical malpractice.

2. Covenant Health & Rehab of Vicksburg, LLC is foreign limited liability corporation organized under the laws of the State of Delaware and whose sole member, through relevant layers, is a corporation organized in Delaware with principal place of business located in the State of Tennessee.

3. On or about May 16, 2014, Plaintiffs filed their Complaint in the Circuit Court of Warren County, Mississippi, styled "Lillie Combs and Andrew Nicholas, wrongful death

beneficiaries of Rucker Combs, Deceased versus Covenant Health & Rehab of Vicksburg, LLC and John Doe Defendants 1 Through 10,” Civil Action No. 14,0050-CI.

4. Plaintiffs served the Complaint upon Covenant Health & Rehab of Vicksburg, LLC on or about August 19, 2014; therefore, pursuant to 28 U.S.C. § 1441 and 28 U.S.C. § 1446(b), this Notice of Removal is timely filed within the thirty (30) days of receipt of service of process.

5. The United States District Court for the Southern District of Mississippi, Northern Division, is the district and division embracing the place where the aforementioned action was filed.

II. DIVERSITY OF CITIZENSHIP AND AMOUNT IN CONTROVERSY

A. PARTIES

6. This Court has original jurisdiction over this civil action pursuant to 28 U.S.C. § 1332 in that complete diversity exists between the properly named parties herein and the amount in controversy, exclusive of interest and costs, exceeds \$75,000.00.

7. On the face of the Complaint in this wrongful death action, the only citizenship provided is that of Plaintiffs’ decedent, Rucker Combs, who at the time of his death was a resident citizen of the State of Mississippi. *Plaintiffs’ Complaint*, ¶ 1, Ex. “A”.

8. Defendant, Covenant Health & Rehab of Vicksburg, LLC is a foreign limited liability company organized under the laws of the State of Delaware, whose sole member, through various layers, is a corporation organized in Delaware whose principal place of business is located in the State of Tennessee.

9. The remaining Defendants, “John Doe Defendants 1 through 10” are unidentified and have no legal presence for the purposes of diversity of citizenship jurisdiction. The

Defendants are not legally or properly named and must be disregarded for purposes of determining diversity of citizenship jurisdiction pursuant to 28 U.S.C. § 1441.

B. AMOUNT IN CONTROVERSY

10. While denying that Plaintiffs are entitled to any sum or relief of, from or against Defendant, the amount in controversy in this civil action exceeds \$75,000.00, exclusive of interest and costs, as evidenced by Plaintiffs' Complaint for wrongful death seeking an award of compensatory and punitive damages.

11. Pursuant to 28 U.S.C. § 1332, this Court has original jurisdiction since it is a civil matter, the amount in controversy is in excess of \$75,000.00 and the properly joined parties are of diverse citizenship.

III. CONCLUSION

12. Defendant hereby gives written notice of the filing of this Notice of Removal to Plaintiffs, and a true and correct copy of this Notice is being filed with the Clerk of the Circuit Court of Warren County, Mississippi, as required by 28 U.S.C. § 1446(d).

13. In further support of this Notice, Defendant attaches copies of all process and pleadings in this action as follows:

Exhibit "A": Plaintiffs' Complaint

Exhibit "B": Summons (Covenant Health and Rehab of Vicksburg, LLC)

Exhibit "C": Affidavit of Service Upon Covenant Health and Rehab of Vicksburg, LLC

WHEREFORE, Covenant Health & Rehab of Vicksburg, LLC, respectfully removes this action from the Circuit Court of Warren County, Mississippi, pursuant to 28 U.S.C. § 1441.

THIS the 12th day of September, 2014.

Respectfully submitted,

COVENANT HEALTH & REHAB OF VICKSBURG,
LLC, DEFENDANT

BY: 

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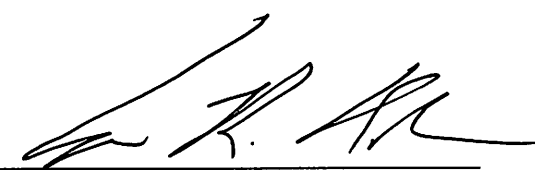
CERTIFICATE OF SERVICE

I, Eugene R. Naylor, one of the attorneys of record for Defendant, do hereby certify that I have this day caused to be mailed via U.S. Mail, postage prepaid, a true and correct copy of the above and foregoing Notice of Removal to the following:

Brandon I. Dorsey, Esq.
BRANDON I. DORSEY, PLLC
Post Office Box 13427
Jackson, Mississippi 39236-3247

ATTORNEY FOR PLAINTIFF

THIS the 12th day of September, 2014.


EUGENE R. NAYLOR